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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
1998 Biennial Regulatory Review -- )  
Amendment of Parts 2, 25 and 68 of the )  
Commission's Rules to Further Streamline )  
the Equipment Authorization Process for )  
Telephone Terminal Equipment, Implement )  
Mutual Recognition Agreement and Begin )  
Implementation of the Global Mobile Personal )  
Communication by Satellite (GMPCS) )  
Arrangements )

GEN Docket No. 98-68

**RECEIVED**

**AUG 26 1998**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: The Commission

**REPLY COMMENTS  
OF  
METRICOM, INC.**

Metricom, Inc. ("Metricom"), by its attorneys, pursuant to Section 1.415 of the Commission's rules, hereby submits these Reply Comments in response to Comments filed in the above-referenced proceeding concerning amendment of the Commission's rules to further streamline the equipment authorization process by allowing private entities to certify equipment.<sup>1</sup> In its Comments, while Metricom supported the Commission's proposal to allow private entities to certify equipment, it urged the Commission to: (1) ensure that Telecommunications Certification Bodies ("TCBs") are fully qualified to certify equipment; (2) adopt additional safeguards to ensure that noncompliant equipment does not enter the marketplace;<sup>2</sup> and, if it

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1. Pursuant to the Commission's Public Notice released August 4, 1998, DA 98-1527, the time for filing these Reply Comments was extended to August 26, 1998.

2. The potential for noncompliant equipment to enter the marketplace is real. In fact, two  
(continued...)

does, (3) ensure that procedures are in place for the expedited removal of that equipment.

1. The majority of commenters supported the Commission's proposal to allow private entities to certify equipment and, like Metricom, urged the Commission to actively enforce its rules governing equipment authorization.<sup>3</sup> Many of these commenters were split, however, on whether the Commission should remove itself entirely from the equipment certification process or work in parallel with TCBs. For the reasons set forth below, Metricom believes that the Commission must retain its role in certifying equipment even if TCBs are permitted to certify equipment.

2. As noted above, several commenters contend that the Commission must remove itself entirely from the equipment certification process once there is a TCB authorized to certify the same type(s) of equipment.<sup>4</sup> These commenters argue that, unless the Commission removes itself from the equipment certification process, there will likely be a two-tier system in which a

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2. (...continued)

commenters pointed to articles revealing evidence that some computer manufacturers are not complying with the Commission's equipment authorization rules -- and these were commenters that recommended the Commission remove itself from the certification process. *See* Comments of Communication Certification Laboratory, p. 6; Comments of ACIL, p. 10 (citing PC Magazine, *Inside PC Labs*, Jan. 6, 1998, p. 29; and Compliance Engineering, *Conformity: Are PC Vendors Abusing FCC DoC Freedoms?*, Feb. 1998. It is true, assuming the interfering equipment can be located, that more active enforcement of the Commission's rules might alleviate some of the problems identified in these articles. However, equipment that is receiving harmful interference would be forced to endure that interference until the Commission forced the noncompliant equipment to discontinue operations.

3. *See, e.g.*, Comments of Intertek Testing Services NA Inc., p. 9; Comments of ACIL, pp. 8-9.

4. *See, e.g.*, Comments of Intertek Testing Services NA Inc., p. 8; Comments of ACIL, p. 8; Comments of International Certification Services, p. 3; Comments of The Telecommunications Industry Association, p. 8.

certification issued by the Commission is regarded as more authoritative than one issued by a TCB.<sup>5</sup> Furthermore, these commenters assert that the Commission should not “compete” with TCBs, but rather, should foster competition among TCBs.<sup>6</sup>

3. As the Commission noted in its NPRM in this proceeding, in 1996, Congress gave the Commission authority “to authorize the use of private organizations for testing and certifying equipment.”<sup>7</sup> No one has argued that this authority eliminates the Commission’s responsibility for adopting “reasonable regulations, consistent with the public interest, governing the interference potential of equipment that emits radio frequency energy.”<sup>8</sup> Consistent with this responsibility, the Commission identified three objectives in the NPRM that would be served by allowing TCBs to certify equipment: (1) provide manufacturers with alternatives for possibly obtaining certification faster than they could from the Commission; (2) provide manufacturers with the option of obtaining certification from a facility more conveniently located to the manufacturer; and, (3) reduce the number of applications filed with the Commission, thereby enabling the Commission to redirect its resources to enforcement of the rules.<sup>9</sup>

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5. *Id.*

6. *See, e.g.,* Comments of International Certification Services, p. 2; Comments of Intertek Testing Services NA Inc., p. 8.

7. *In re Amendment of Parts 2, 25 and 68 of the Commission’s Rules to Further Streamline the Equipment Authorization Process for Radio Frequency Equipment*, FCC 98-92, released May 18, 1998, at ¶ 11 (citing 47 U.S.C. § 302(e)) (hereinafter “NPRM”).

8. NPRM at ¶ 3 (citing 47 U.S.C. § 302(a)).

9. NPRM at ¶ 11.

4. Notably, none of the Commission's stated objectives is to promote competition among, or avoid competition with, TCBs. Likewise, avoiding FCC competition with TCB's or promoting competition among TCBs was not among the objectives of the bill passed by Congress that granted the Commission authority to authorize private organizations to test and certify equipment.<sup>10</sup>

5. Furthermore, some commenters asserted that a certification issued by the Commission will be more authoritative than one issued by a TCB, and, consequently, TCBs would be unable to compete with the Commission.<sup>11</sup> This view is based on a misreading of misunderstanding of the NPRM. In the NPRM, the Commission proposed to require TCBs to "meet all the Commission's labeling requirements, including the use of an FCC identifier."<sup>12</sup> If TCBs meet all the Commission's labeling requirements, including the use of the identical labels as the Commission, anyone looking at the equipment will be unable to determine whether the Commission or a TCB certified the equipment. Therefore, there is no merit to the argument that one type of certification will be more authoritative than another.

6. The Commission must remain actively involved in the equipment certification process in order to: (1) provide oversight and guidance to TCBs; (2) remain knowledgeable about

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10. See 47 U.S.C. § 302(e). At least one potential TCB agrees. Curtis-Straus is not concerned that if the Commission continues to certify equipment it will be unable to compete, but rather, supports the Commission's continued role in certifying equipment in order to ensure a competitive marketplace for TCBs. See Comments of Curtis-Straus LLC, p. 2.

11. See, e.g., Comments of The United States Council of EMC Laboratories, p. 5; Comments of ACIL, p. 8; Comments of Intertek Testing Services NA Inc., p. 8; Comments of International Certification Services, p. 3.

12. NPRM at ¶ 17(g).

equipment certification procedures, especially for new equipment; (3) periodically audit TCBs for adhering to the Commission's rules governing equipment certification; and, (4) enforce its certification rules, including the revocation of a TCB's ability to certify equipment.

Furthermore, if the Commission discontinued certifying equipment and a TCB's certification was revoked, the Commission could be placed in a difficult situation because it would not be in a position to immediately resume certifying the equipment and another TCB qualified to certify the same type of equipment may not exist. Consequently, manufacturers of such equipment could face a significant delay in having their equipment certified -- contrary to the Commission's goal in this proceeding.

7. Based on the foregoing, Metricom urges the Commission to retain its role in certifying equipment and to take further action in this proceeding consistent with the Comments and Reply Comments filed by Metricom.

Respectfully submitted,  
**METRICOM, INC.**

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